we knew. Included as impelling foreign production were foreign financial subsidies, tax avoidance, lower production costs, popularity of authentic locale, frozen funds—all complex reasons. We urged Congressional action in two primary areas: (1) fight subsidy with subsidy. Use the present 10 percent admissions tax to create a domestic subsidy; (2) taxes. . . . [W]e proposed consideration of a spread of five or seven years over which tax would be paid on the average, not on the highest, income for those years.''

Despite these impassioned pleas, runaway production has continued to grow in importance, scope and visibility. Today it ranks among the most critical issues confronting the entertainment industry. The issue received increased attention in June 1999, when SAG and the Directors Guild of America (''DGA'') commissioned a Monitor Company report, ''The Economic Impact of U.S. Film and Television Runaway Production'' (''Monitor Report''), that analyzed the quantity of motion pictures shot abroad and resulting losses to the American economy. In January 2001, concerns over runaway production were addressed in a report prepared by the United States Department of Commerce. The eighty-eight page document (''Department of Commerce Report'') was produced at the request of a bipartisan congressional group. Like the Monitor Report, the Department of Commerce Report acknowledged the ''flight of U.S. television and cinematic film production to foreign shores. Both reports quantify the nature and depth of the problem and warn of further proliferation if left unchecked.

Additionally, the media is bringing the issue of runaway production to the attention of the general public. Numerous newspaper articles have focused on the concerns cited in the Monitor Report. For example, in The Washington Post, Lorenzo di Bonaventura, Warner Bros. president of production, explained the runaway production issue as follows:

''For studios, the economics of moving production overseas are tempting. The 'Matrix' cost us 30 percent less than it would have if we shot in the United States. . . . The rate of exchange is 62 cents on the dollar. Labor costs, construction materials are all lower. And they want us more. They are very embracing when we come to them.''

Di Bonaventura indicated Warner Bros. received $12 million in tax incentives for filming ''The Matrix'' in Australia. This is a significant savings for a film that cost approximately $62 million to produce.

III. CAUSES OF RUNAWAY PRODUCTION

In the Department of Commerce Report, the government delineated factors leading to runaway film and television production. These factors have contributed to the ''substantial transformation of what used to be a traditional and quintessentially American industry into an increasingly dispersed global industry.''

A. Vertical Integration: Globalization

Vertical integration is defined by the International Monetary Fund as ''the increasing integration of economies around the world, particularly through trade and financial flows.'' The term may also refer to ''the movement of people (labor) and knowledge (technology) across international borders.''

Consequently, companies must now be productive and international in order to profit. Because companies are generally more interested in profits than in people, companies are often not loyal to communities in which they have flourished. Instead, they solely consider the bottom line in the process of making business decisions.

Columbia is an excellent example of the conversion from a traditional U.S.-based company to a global enterprise. Columbia began in 1918 when independent producer Harry Cohn, his brother Jack and their associate Joe Brandt, started the company with a $100,000 loan. In 1926, Columbia purchased a small lot on Gower Street in Hollywood, California, with just two sound stages and a small office building. In 1929, Columbia's success began when it produced its first ''talkie'' feature, ''The Donovan Affair,'' directed by Frank Capra, who would become an important asset to Columbia. Capra went on to produce other box office successes for Columbia such as ''You Can't Take It With You'' and ''Mr. Smith Goes to Washington.''

In 1966, Columbia faced a takeover attempt by the Banque de Paris et Pays-Bas, owner of twenty percent of Columbia, and Maurice Clairmont, a well-known corporate raider. The Communications Act of 1934 prohibited foreign ownership of more than one-fifth of an American company with broadcast holdings. The Banque de Paris could not legally take over Columbia because one of Columbia's subsidiaries, Screen Gems, held a number of television stations. In 1982, the Coca-Cola Company purchased Columbia.

In 1988, Columbia's share of domestic box office receipts fell to 3.5 percent and Columbia registered a $104 million loss. In late 1989, Columbia entered into an agreement with Sony USA, Inc., a subsidiary of Japan's Sony Corporation, for the purchase of all of Columbia's outstanding stock. This acquisition apparently did not violate the amended Communications Act.

Following in Columbia's footsteps, other studios have globalized through foreign ownership. Universal Studios, Inc. (''Universal''), previously the Music Corporation of America, was acquired by the additional Japanese electronics company Matsushita in 1991, and four years later was purchased by Seagram, a Canadian company headquartered in Montreal. In 1985, Australian media mogul Rupert Murdoch acquired a controlling interest in Fox, and Time, Inc., a publishing and cable television giant, acquired Warner Bros. in 1989.

As studios become multinational, their loyalty to the community or country in which they were born wanes. The international corporations are no longer concerned with the ramifications of moving production outside uses for of their community or country; they are instead concerned only with bottom-line profits. Columbia exemplifies, globalization. Columbia no longer owns a studio lot, let alone its humble beginnings on Gower Street. The Studio simply rents office space in a building in Culver City, California. Not surprisingly, global corporations think globally, not locally. Shooting abroad is not only acceptable, but preferable to companies who are not loyal to any one country.

B. Rising Production and Distribution Costs and Decreasing Profits

By the end of the 1990s, studio executives began to alter their business methods. Despite aggressive cost-cutting, layoffs, strategic joint ventures and movement of production to foreign shores, rising production and distribution costs have consumed profits over the last decade. Production costs rose from an average of $26.8 million to $51.5 million. Distribution costs for new feature films more than doubled. In 1990, the average motion picture cost $11.97 million to distribute, and by 1999, the costs rose to $24.53 million. At the same time, profit margins dropped. For example, Disney Studio's profits decreased from 25 percent in 1987 to 19 percent in 1997, and Viacom's profits dropped from 13 percent in 1987 to less than 6.5 percent in 1997. Additionally, both Time Warner and News Corporation, parent of Fox, showed declining profits as well.

C. Technological Advances

According to the Department of Commerce Report, ''[N]ew technologies and tools may well be contributing to the increase in the amount of foreign production of U.S. entertainment programming.'' Ten years ago, even if a foreign country had lower labor costs, it would have been prohibitively expensive to transport equipment and qualified technicians to produce a quality picture abroad. However, new technology is defeating that obstacle. Scenes shot on film must be transferred or scanned into a videotape format; this process creates what is referred to as dailies. However, many foreign production centers are unable to instantaneously produce dailies from film. Nevertheless, technological advancement has led to the creation of high definition video, which, like dailies, offers immediate viewing capabilities approximating the visual quality of film. As the quality of high definition video continues to improve, producers will be free to shoot abroad regardless of whether the country offers film processing centers.

D. Government Sweeteners

Canada is extremely aggressive in its application of both Federal and provincial subsidies to entice production north of the border: ''At the federal level, the Canadian government offers tax credits to compensate for salary and wages, provides funding for equity investment, and provides working capital loans. At the provincial level, similar tax credits are offered, as well as incentives through the waiving of fees for parking, permits, location, and other local Costs.''

These enticements equal a sizable economic benefit. According to the Monitor Report, ''U.S.-developed productions located in Canada have been able to realize total savings, including incentives and other cost reducing characteristics of producing in Canada, of up to twenty-six percent.'' The Department of Commerce Report carefully delineates a plethora of incentives employed by a host of countries. It concludes the undeniable impact of these programs is to weaken the market position of the U.S. film-making industry and those who depend on the industry for employment.

E. Exchange Rates

Because the U.S. dollar is stronger than Canadian, Australian and U.K. currencies, American producers have more purchase power when they opt to film abroad. As a result, producers are tempted to locate where the dollar has the most value. The Canadian, Australian and U.K. currencies have all declined by fifteen to twenty-three percent, relative to the U.S. dollar, since 1990.

IV. THE IMPACT OF RUNAWAY PRODUCTION

A. The Economic Impact

In total, U.S. workers and the government lost $10.3 billion to economic runaways in 1998. According to the Monitor Report, ''$2.8 billion in direct expenditures were lost to the United States in 1998 from both theatrical films and television economic runaways.'' For example, if a theatrical picture is shot in New York, then carpenters are employed to make the set, caterers are employed to prepare and serve food, and costume designers are hired to provide wardrobe. As the Department of Commerce Report explains, ''[B]ehind the polished, finished film product there are tens of thousands of technicians, less well-known actors, assistant directors and unit production managers, artists, specialists, post-production workers, set movers, extras, construction workers, and other workers in fields too numerous to mention.''

This fiscal loss ripples through the economy affecting peripheral industries. In addition to the direct economic loss discussed